



May 27, 2014

Dear NABOB Members and Friends,

**COMCAST-TIME WARNER AND AT&T-DIRECTV  
MEGA-MEDIA MERGERS RAISE ISSUES FOR FEDERAL REGULATORS  
AND THE INDUSTRY**

Earlier this year, Comcast announced it would acquire Time Warner Cable in a transaction estimated to be worth \$45 billion. Recently, AT&T announced that it will acquire DirecTV in a deal worth \$48.6 billion. These deals follow a substantial consolidation of ownership in the broadcast television business that began last year. The Comcast-Time Warner and AT&T-DirecTV transactions must gain approval from both the U.S. Department of Justice and the Federal Communications Commission. In addition, Congress has taken a great interest in these transactions. Both the Senate and House Judiciary Committees have held hearings on the Comcast-Time Warner deal, and Congressional committees have indicated that they will also hold hearings on the AT&T-DirecTV deal.

It is anticipated that it will take approximately 9 months for each of the Comcast-Time Warner and AT&T-DirecTV transactions to work their way through the regulatory review process. It is too early to predict whether either or both transactions will be approved by the Department of Justice and FCC. Similarly, it is too early to predict, if each is approved, what conditions the government might place on such approvals.

NABOB is very interested in the review process, and we will have a number of questions to ask. For example, when Comcast announced the Time Warner deal, Comcast announced that it would need to spinoff cable television systems serving approximately 3 million subscribers, valued at \$17 billion. Because cable television systems can be sold in distinct metropolitan units, NABOB recognized immediately that this was an ideal opportunity for Comcast to spinoff some of these cable television systems in several smaller transactions, which would provide African American entrepreneurs opportunities to purchase one or more of these cable television systems.

In March, NABOB contacted Comcast and asked that they consider spinning off some cable television systems in smaller transactions. Unfortunately, Comcast did not respond to NABOB's request, and instead, announced that it will spinoff all of the systems in a complicated deal with Charter Communications.

When the FCC reviews the Comcast-Time Warner deal, it will have to decide whether there are public interest benefits to the transaction that weigh in favor of the transaction, in spite of the potential loss of competition that will result from the merger. NABOB regards the Comcast decision not to spinoff any systems to African American entrepreneurs as a missed opportunity for Comcast to demonstrate a clear public interest benefit that would result from the transaction. NABOB will continue to press Comcast to reconsider its decision not to spinoff any systems to African American entrepreneurs.

Another issue that NABOB will monitor with respect to the Comcast-Time Warner transaction is the extent to which Comcast commits to carry channels, such as TVOne, on Comcast's basic tiers, so that consumers will not have to subscribe to high priced tiers to receive programming serving the African American community.

**NABOB AND NNPA CONTINUE THEIR OBJECTS TO PROPOSED  
DEPARTMENT OF JUSTICE AND TOBACCO COMPANY REMEDIAL  
ADVERTISING PLAN WHICH EXCLUDES BLACK MEDIA**

On January 13, 2014, Target Market News broke the story that the U.S. Department of Justice and the largest tobacco companies had negotiated a consent order in the long running litigation between the Department of Justice and Philip Morris, RJ Reynolds, and Lorillard, in the U.S. District Court for the District of Columbia. The proposed consent order provided the details of an advertising program the tobacco companies have been directed to air to provide the public the truth about the negative health effects of using tobacco products. The consent order created a national advertising campaign. **But the national ad campaign directed no advertising dollars to the African American community, even though for decades our community was heavily targeted by the tobacco companies' misleading ads promoting smoking and hiding the truth about the potential negative health effects.**

On January 15, 2014, NABOB wrote to Attorney General Eric Holder asking him to review the consent order proposed by the Department of Justice. In the letter, NABOB explained that the consent order requires the tobacco companies to air commercials that contain "corrective statements" informing the public of the harmful effects that smoking causes. NABOB pointed out that, in the litigation, it was demonstrated that the tobacco companies had specifically targeted African American communities, particularly young people, with advertising and promotions designed to increase smoking. Yet, the proposed consent order required that the corrective commercial campaign be run exclusively on ABC, CBS, NBC, and 35 newspapers, including some Spanish language newspapers. The consent decree did not obligate the tobacco companies to place any commercials on Black owned media, or even media targeting the African American community. We asked Attorney General Holder to have his Department revise the

consent decree to specifically require the tobacco companies to advertise on Black owned media.

On January 17, 2014, NABOB was invited by the National Newspaper Publishers Association to join in filing an amicus brief advising the court of the need to use Black owned media to effectively reach and inform the African American community. NABOB and NNPA requested that our members be added to the media included in the consent decree.

On January 22, 2014, Judge Gladys Kessler held a status conference. Judge Kessler noted that the settlement that the DOJ and tobacco companies had offered to her for approval raised a number of concerns that she plans to consider before deciding whether to approve the settlement. **The first concern that the judge raised is whether the advertising plan in the settlement failed to target a significant part of the public.** This is clearly the point that NABOB and NNPA raised in our amicus brief.

On April 22, 2014, the tobacco companies and the Department of Justice proposed a revised consent decree to the judge. In the revised consent decree, the tobacco companies and the DOJ proposed some token use of Black newspapers and **no** use of Black radio. On May 28, 2014, NNPA and NABOB will file an opposition to the proposed revised consent decree, and we will continue to press our case that the settlement must be rejected by the judge and revised to include meaningful use of Black owned media in the advertising campaign.

### **FCC ADOPTS FIRST SET OF INCENTIVE AUCTION RULES**

At its open meeting on May 15, 2014, the FCC adopted its first set of rules for the Television Spectrum Incentive Auction. The FCC announced a number of decisions about the auction, but acknowledged that it will need to decide several more key issues. The issue most watched by television station owners is the opening prices for spectrum to be turned in by broadcasters. In addition, the FCC will decide at a late time what steps it should take to protect low power television stations.

Television stations across the country, especially in the top 30 TV markets, are likely to be impacted by the Incentive Auction, either by turning in spectrum in exchange for a payment from the auction proceeds, or because of changes in their operating frequencies resulting from the FCC “repacking” station frequencies to meet the frequency changes required by the auction.

### **NABOB SUPPORTS THE FCC’S DECISION ON JSAS AND SSAS AS MECHANISMS FOR PROMOTING MINORITY OWNERSHIP OF TELEVISION STATIONS**

The FCC adopted a new policy for the treatment of Joint Sales Agreements (“JSAs”) between television stations in the same market, which is very similar to a policy proposal that NABOB suggested previously. The new policy will treat all JSAs that

cover more than 15% of a station's advertising time as "attributable" to the station that is operating the JSA. Therefore, if the JSA operator would not be able to own the second station under the FCC's ownership rules, it will not be able to operate the JSA without a waiver of the attribution rule. In order to obtain a waiver, the JSA operator must demonstrate that a waiver will serve the public interest.

The new rule has two aspects that might benefit minority entrepreneurs. First, a JSA operator might be able to demonstrate that the public interest will benefit from a waiver, because a minority owner will be able to develop a station into a successful business operation, thereby bringing diversity of ownership to a market. Second, if the JSA operator chooses not to make a public interest showing to obtain a waiver, the station that was under a JSA might be placed on the market and a minority owner might be in position to purchase the station.

NABOB is pleased to see this new policy, and we look forward to working with the FCC and broadcasters to develop JSA proposals that will be able to obtain the necessary waivers.

**THE NABOB FOUNDATION IN PARTNERSHIP WITH NABEF**  
**CONDUCTED ITS NINTH ANNUAL MEDIA SALES INSTITUTE AT**  
**FLORIDA A&M UNIVERSITY**

We are pleased to report that the NABOB-NABEF Media Sales Institute, conducted by Personal Selling Principles, May 12-22, at Florida A&M University, was another major success. I had the pleasure once again of speaking to the candidates on the first day of the program to provide encouragement to them about pursuing careers in media sales, and hopefully to become the next generation of broadcast station owners.

The NABOB Foundation is very fortunate to be able to work with Dean Ann Kimbrough of the School of Journalism & Graphic Communication, and Dean Shawnta Friday-Stroud of the School of Business and Industry to hold our very important ninth annual MSI at FAMU. FAMU and Jeffrey Myers and Dana Myers of PSP are to be commended for assembling another great group of MSI candidates from many colleges and universities, and we anticipate that, like so many of their predecessors, this year's class of candidates will go on to have rewarding careers in the media industry.

## CONTACT

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